

REMARKS

Claims 1-14 and 16-35 are pending.

103 Rejections

The instant Office Action states that Claims 1-14 and 16-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bindra, *electronic design* article dated November 6, 2000, "Programmable SoC Delivers an New Level of System Flexibility" (hereinafter, "Bindra"), in view of "PSoC Designer: Integrated Development Environment, Getting Started 25-Minute Tutorial" Revision 1.0 dated July 3, 2001 (hereinafter, "Tutor").

Applicant respectfully agrees that Bindra does not address "automatically constructing source code," as admitted on page 5 of the Office Action. Tutor is cited to correct this deficiency.

However, Tutor does not qualify as prior art. Applicant has already filed a suitable disclaiming affidavit establishing that the relevant portion of Tutor was derived from Applicant's own work. Tutor has a date of July 3, 2001, within one year of the filing date of the instant application. It is well established that Applicant's disclosure of his own work within the year before the application filing date cannot be used against him.

Thus, Applicant respectfully asserts that the cited, qualified prior art references do not show or suggest the present claimed invention.

It is incumbent on the Examiner to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three criteria must be met. One of those criteria is that the prior art reference must teach or suggest all the claim limitations. The Applicant respectfully asserts that the Examiner has not satisfied this criterion and has not established a *prima facie* case of obviousness.

The instant Office Action attempts to argue that the “PSoC Designer” of Bindra is the same tool as the “PSoC Designer” of the disqualified Tutor reference. However, no facts in support of this argument are provided. In fact, the Examiner has admitted quite the opposite – by the Examiner’s admission, the Bindra reference does not disclose all of the features the “PSoC Designer” of the disqualified Tutor reference. Bindra, by the Examiner’s own admissions, does not address “automatically constructing source code” as recited in the claims. Quite clearly, based on the contents of the references themselves, Bindra and Tutor do not describe the same tool.

On pages 2-3, the instant Office Action states “The clause ‘PSoC Designer’ is the fact for showing the Bindra and the Tutor are discussing to the same tool.” The Examiner is no doubt aware that software, and consumer products in general, can continue to be known by the same name even as upgrades are made and new, patentably distinct features are added. There are innumerable products, including software, that continue to be referred to using a well-known name (e.g., a brand name), despite dramatic changes made to the product.

On page 3, the instant Office Action states that "It should be noted that when a reference like Bindra describing a tool like PSoC Designer, it does not need to detail everything in the tool." Applicant disagrees. If the Bindra reference is to be cited as anticipating a tool like "PSoC Designer," then the reference must teach every element of the claim.

The first full paragraph on page 3 of the instant Office Action provides a summary of the Bindra reference. However, nothing presented in that summary reads on "automatically constructing source code" as recited in the claims. To reiterate, this fact is admitted to on page 5 of the Office Action.

On page 3 of the instant Office Action, the Examiner appears to be comparing Figures 6-7 of the application to Figure 4 of Bindra. The instant Office Action states the drawings "are identical." In fact, the drawings, including the toolbars represented in the drawings, are not identical. Furthermore, the drawings (Figures 6-7) are exemplary only. Moreover, even if two icons appear to be identical, that is not sufficient evidence to conclude that they perform identical functions. Functionality may be added from one software version to the next.

On page 5, the instant Office Action states "The Tutor ... shows that the PSoC Designer has the feature, 'automatically constructing source code comprising configuration information' ... for the circuit in Figure 4 of Bindra." Because Bindra predates the Tutor reference, Applicant respectfully submits that there is no basis for this statement. That is, because Bindra existed before and therefore without Tutor, there is no basis for linking the circuit of Bindra to Tutor.

To summarize, the Applicant and the Examiner are in agreement that the cited prior art reference (Bindra) does not show or suggest a claimed feature, namely "automatically constructing source code." Applicant respectfully requests that the Examiner provide a reference showing this claimed feature if the rejection of Claims 1-14 and 16-35 is to be maintained. Absent such a reference, Applicant respectfully asserts that a *prima facie* case of obviousness has not been established, and Applicant requests that the rejection of Claims 1-14 and 16-35 under 35 U.S.C. § 103(a) be withdrawn.

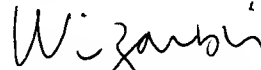
Conclusions

In light of the above remarks, reconsideration of the rejected claims is respectfully requested. Based on the arguments presented above, it is respectfully asserted that Claims 1-14 and 16-35 overcome the rejections of record and, therefore, allowance of these claims is solicited.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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